

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 31807 of 1998

Between:

Scientific Adviser to the Raksha Mantri & Director General, Defence Research
& Development Organisation, Ministry of Defence, New Delhi and another.

..... PETITIONERS

AND

1. Md.Yousuf Ali, and another

.....RESPONDENTS

THE COURT MADE THE FOLLOWING :

ORAL ORDER: *(per Hon'ble Smt. T. Meena Kumari, J)*

The present writ petition has been filed questioning the order passed by the 2nd respondent herein in O.A. No. 996 of 1998 dated 12-08-1998, directing the petitioners herein to treat the period of suspension of the first respondent herein from 4-8-1976 to 6-5-1981 as spent on duty and directing payment of full pay and allowances and further directing regulation of promotion in accordance with the order as illegal and contrary to the settled principles of law.

The facts go to show that the first respondent herein was subjected to departmental enquiry with regard to the false medical reimbursement claims and was placed under suspension on 4-8-1976 pending the departmental enquiry and subsequently he was awarded the punishment of 'Removal' from service with effect from 6-5-1981 in view of the gravity of the charges held proved. Aggrieved thereby, the first respondent filed W.P. No. 6490 of 1981, wherein this Court upheld the contention of the first respondent that the Director had no power to impose the punishment. Against the said order, the petitioners herein filed SLP before the Supreme Court, which was allowed and the matter was remitted to this Court, which in turn transferred the case to the Central Administrative Tribunal i.e. second respondent herein. However, the second respondent herein by its judgment dated 8-10-1993, set aside the order of dismissal of the first respondent and ordered the imposition of punishment of withholding of two increments. In accordance with the judgment, the 1st respondent herein was reinstated to duty by order dated 29-3-1994 and the punishment as directed by the second respondent was inflicted on him.

Record further reveals that aggrieved by the order of the second respondent, the first respondent again filed O.A. No. 1024 of 1994 questioning the order in so far as inflicting the punishment on him. However, the Tribunal by order dated

4-6-1997 had directed the first respondent to avail the appellate remedy available to him under the rules. Accordingly, the first respondent filed an appeal and the appellate authority after carefully considering each of the contentions raised by the first respondent herein had rejected the appeal and confirmed the punishment imposed on the first respondent by his order dated 10-10-1997. The first respondent, aggrieved thereby, filed O.A. No. 996 of 1998 i.e. the present case before the second respondent, seeking to declare the order passed by the disciplinary authority as confirmed by the appellate authority as illegal and unconstitutional and for a direction to treat the period of suspension as spent on duty and for all consequential benefits. When the matter had come up for admission, the second respondent, basing on the representation made on behalf of the 1st respondent that the case was covered by the earlier judgment of the second respondent made in O.A. No. 1417 of 1995 decided on 1-5-1998, had allowed the O.A. filed by the first respondent, by the impugned judgment. Hence the present writ petition.

The learned Standing Counsel for the petitioners-Central Government contended that the matter is not covered by the judgment in O.A. No. 1417 of 1995, in view of the fact that the subject matter of that OA deals with minor penalty, whereas in the present case the punishment imposed is a major penalty which is of stoppage of two increments with cumulative effect. The said proposition has been fairly conceded by the learned counsel for the first respondent and he submitted that in view of the fact that the subject matter in O.A.1417 of 1995 deals with the punishment of minor penalty, the stoppage of two increments with cumulative effect is major penalty and hence, the matter is not covered by that OA. However, as the disciplinary authority after going into the merits of the case has imposed the major penalty of stoppage of two increments with cumulative effect, we decide the matter on the basis of the material available on record.

Since the charges levelled against the petitioner were held proved, which apparently serious in nature, and since the punishment imposed in that

connection was stoppage of two increments with cumulative effect and in view of the fact that the disciplinary authority has passed the order on the representation made by the respondent herein for counting the period of suspension from 04-08-1976 to 06-05-1981 for the purpose of pension and terminal benefits only as punishment imposed is stoppage of two increments with cumulative effect, we do not find any reason to interfere with the order passed by the disciplinary authority and we make it clear that the period of suspension between 04-08-1976 and 06-05-1981 shall be counted for the purpose of pension and terminal benefits only, if not already counted.

With the above observations, the writ petition is allowed and the order in O.A.No.996 of 1998 is set aside. No order as to costs.

T.MEENA KUMARI, J

P.LAKSHMANA REDDY, J

28th September, 2005

SKM/KVSN

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief justice on this Wednesday, 28th Day of September Two thousand and Five.

REGISTRAR

